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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,302	12/29/2000	Andrew Rouse	23452.127 (Formerly 52817)	6724
909	7590	08/26/2005	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			COULTER, KENNETH R	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	

2141

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/750,302

Applicant(s)

ROUSE ET AL.

Examiner

Kenneth R. Coulter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/9/05; 6/10/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 21 – 40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 33 - 64 of copending Application No. 09/885,139. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim language of the present Application (claims 21 – 40 of 09/750,302) is a broad version of the claims of Application No. 09/885,139 (claims 33 – 64; filed 3/15/05).

The differences between the claim language of present Application and Application No. 09/885,139 are minor differences that do not yield patentably distinct features.

Claim 21 in the present Application is a broad version of claim 33 in 09/885,139.

Claim 22 in the present Application maps exactly to claim 34 in 09/885,139.

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Claim 23 in the present Application maps closely to claim 35 in 09/885,139.

Claim 24 in the present Application maps closely to claim 37 in 09/885,139.

Claim 25 in the present Application maps closely to a portion of claim 33 in 09/885,139  
(Claim 33, lines 17 – 18).

Claims 26 – 40 are mapped similarly to the explanation given above.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 21 – 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Sone (U.S. Pat. No. 6,826,554) (System and Method for Adaptively Configuring a Shopping Display in Response to a Recognized Customer Profile).

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4.1 Regarding claim 21, Sone discloses a method of formatting content for display on a mobile wireless client device that is based on a form that is used to display content on a desktop computer, the form being associated with an action that is executable by an application, wherein the form is stored remotely from the mobile wireless client device, the method comprising:

enabling selection of the action on the mobile wireless client device (Abstract "As a customer enters the interrogator unit's RF field");

receiving, via a wireless medium, the selection of the action from the mobile wireless client device (Figs. 1, 2; Abstract; col. 2, lines 41 - 52);

executing the action from the mobile wireless client device, wherein executing the action generates content (Abstract; Figs. 5a, 5b; col. 3, lines 43 – 56; col. 11, lines 10 - 32);

providing a mobile design element that corresponds to the form and is associated with the mobile wireless client device (Abstract; Figs. 4a, 5a; col. 3, lines 43 – 56; col. 11, lines 10 - 32);

formatting the content according to the mobile design element (Abstract; Figs. 5a, 5b; col. 3, lines 43 - 56);

transmitting the content that is formatted according to the mobile design element to the mobile wireless client device (Abstract; Figs. 5a, 5b; col. 3, lines 43 – 56; col. 11, lines 10 - 32); and

storing the mobile design element **remotely** from the mobile wireless client device in a **application digest** (Figs. 4a, 5a, item 46; col. 13, line 63 – col. 14, line 17).

4.2 Per claim 22, Sone teaches the method of claim 21, therein the mobile design element comprises at least one of a document style sheet, a view style sheet, a pre-formatted page, and a script (col. 3, lines 5 – 20 “demographic profile message script”).

4.3 Regarding claim 23, Sone discloses the method of claim 21, further comprising customizing the form according to settings selected on the wireless client device (Abstract; Figs. 3a, 3b; col. 7, line 61 – col. 8, line 19; col. 3, lines 43 – 56; col. 11, lines 10 - 32).

4.4 Per claim 24, Sone teaches the method of claim 21, further comprising customizing the form based on at least one of a date/time setting, a language setting, a field size setting, a content size setting, and a mobile design element size setting (Abstract “different national languages”; col. 14, lines 32 – 37 “The hold-time for each interrogator/display panel combination may also be programmed by store management in order to accommodate differing traffic densities **during different times of the day.**”; col. 7, lines 40 – 51 “the information displayed on the adaptively reconfigurable display screen might be presented with a considerably larger font size so as to take into account an older person’s potentially declining visual acuity.”).

4.5 Regarding claim 25, Sone discloses the method of claim 21, further comprising:

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generating the mobile design element based on the form (Abstract; Figs. 3a, 3b; col. 7, line 61 – col. 8, line 19; col. 3, lines 43 – 56; col. 11, lines 10 - 32).

4.6 Per claims 26 – 40, the rejection of claims 21 – 25 under 35 USC 102(e) (paragraphs 4.1 – 4.5 above) applies fully.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER  
PRIMARY EXAMINER



krc